

1-1 By: Simpson, et al. (Senate Sponsor - Deuell) H.B. No. 1382  
 1-2 (In the Senate - Received from the House May 13, 2013;  
 1-3 May 13, 2013, read first time and referred to Committee on  
 1-4 Agriculture, Rural Affairs, and Homeland Security; May 20, 2013,  
 1-5 reported favorably by the following vote: Yeas 3, Nays 0;  
 1-6 May 20, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11			X	
1-12	X			
1-13	X			

1-14 A BILL TO BE ENTITLED  
 1-15 AN ACT

1-16 relating to the regulation of food prepared, stored, distributed,  
 1-17 or sold at farms and farmers' markets; limiting the applicability  
 1-18 of a fee.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 437.001, Health and Safety Code, is  
 1-21 amended by adding Subdivision (6) to read as follows:

1-22 (6) "Produce" means fresh fruits or vegetables.

1-23 SECTION 2. Section 437.020, Health and Safety Code, is  
 1-24 amended to read as follows:

1-25 Sec. 437.020. REGULATION OF FOOD [~~PRODUCE~~] SAMPLES AT FARMS  
 1-26 AND [MUNICIPALLY OWNED] FARMERS' MARKETS. (a) In this section:

1-27 (1) "Farmers' market" means a designated location used  
 1-28 primarily for the distribution and sale directly to consumers of  
 1-29 food by farmers or other producers.

1-30 (2) "Food" means an agricultural, apicultural,  
 1-31 horticultural, silvicultural, viticultural, or vegetable product  
 1-32 for human consumption, in either its natural or processed state,  
 1-33 that has been produced or processed or otherwise has had value added  
 1-34 to the product in this state. The term includes:

1-35 (A) fish or other aquatic species;

1-36 (B) livestock, a livestock product, or a  
 1-37 livestock by-product;

1-38 (C) planting seed;

1-39 (D) poultry, a poultry product, or a poultry  
 1-40 by-product;

1-41 (E) wildlife processed for food or by-products;

1-42 (F) a product made from a product described by  
 1-43 this subdivision by a farmer or other producer who grew or processed  
 1-44 the product; or

1-45 (G) produce.

1-46 (b) Except as provided by this section and Sections  
 1-47 437.0201, 437.0202, and 437.0203 [~~Subsection (b)~~]:

1-48 (1) this chapter does not regulate the provision of  
 1-49 samples of food or the sale of food [~~produce~~] to consumers at a farm  
 1-50 or [~~municipally owned~~] farmers' market; and

1-51 (2) a rule adopted under state law may not regulate the  
 1-52 provision of samples of food or the sale of food [~~produce~~] to  
 1-53 consumers at a farm or [~~municipally owned~~] farmers' market.

1-54 (c) Samples of food [~~(b) Produce samples~~] may [~~only~~] be  
 1-55 prepared and distributed at a farm or [~~municipally owned~~] farmers'  
 1-56 market if the following sanitary conditions exist:

1-57 (1) [~~produce samples must be kept in approved, clean,~~  
 1-58 ~~and covered containers,~~

1-59 [~~(2) produce~~] samples must be distributed in a  
 1-60 sanitary manner;

1-61 (2) a person preparing produce samples on-site must:

2-1 (A) wear ~~[(3)]~~ clean, disposable plastic gloves  
 2-2 ~~[must be used]~~ when preparing ~~[cutting produce]~~ samples; or  
 2-3 (B) observe proper hand washing techniques  
 2-4 immediately before preparing samples;  
 2-5 (3) ~~[(4)]~~ produce intended for sampling must be washed  
 2-6 in potable water to remove any soil or other visible material ~~[so~~  
 2-7 ~~that it is wholesome and safe for consumption];~~  
 2-8 (4) ~~[(5)]~~ potable water must be available for ~~[hand]~~  
 2-9 washing ~~[and sanitizing as approved by the local or state~~  
 2-10 ~~enforcement agency];~~  
 2-11 (5) except as provided by Section 437.0202(b), ~~[(6)]~~  
 2-12 potentially hazardous food ~~[cut produce]~~, as determined by rule of  
 2-13 the department, must be maintained at or below 41 degrees  
 2-14 Fahrenheit or ~~[, and produce samples must be]~~ disposed of within two  
 2-15 hours after cutting or preparing; and  
 2-16 (6) ~~[(7)]~~ utensil and hand washing water must be  
 2-17 disposed of in a facility connected to the public sewer system or in  
 2-18 a manner approved by the local or state enforcement agency; and  
 2-19 ~~[(8)]~~ utensils and cutting surfaces used for cutting  
 2-20 samples must be smooth, nonabsorbent, and easily cleaned or  
 2-21 disposed of ~~[as approved by the local or state enforcement agency].~~  
 2-22 (d) A person who sells or provides a sample of meat or  
 2-23 poultry or food containing meat or poultry must comply with Chapter  
 2-24 433.

2-25 SECTION 3. Section 437.0201, Health and Safety Code, is  
 2-26 amended by amending Subsection (a) and adding Subsection (e) to  
 2-27 read as follows:

2-28 (a) In this section, "farmers' market" and "food" have the  
 2-29 meanings assigned by Section 437.020 ~~[means a designated location~~  
 2-30 ~~used primarily for the distribution and sale directly to consumers~~  
 2-31 ~~of food products by farmers or other producers].~~

2-32 (e) The executive commissioner or a state or local  
 2-33 enforcement agency may not adopt a rule requiring a farmers' market  
 2-34 to pay a permit fee for conducting a cooking demonstration or  
 2-35 providing samples of food if the demonstration or provision of  
 2-36 samples is conducted for a bona fide educational purpose.

2-37 SECTION 4. Sections 437.0202(a) and (b), Health and Safety  
 2-38 Code, are amended to read as follows:

2-39 (a) In this section, "farmers' market" and "food" have ~~[has]~~  
 2-40 the meanings ~~[meaning]~~ assigned by Section 437.020 ~~[437.0201].~~

2-41 (b) The executive commissioner by rule may adopt  
 2-42 temperature requirements for food sold at, prepared on-site at, or  
 2-43 transported to or from a farmers' market under Section 437.020,  
 2-44 ~~[or]~~ 437.0201, or 437.0203. Food prepared on-site at a farmers'  
 2-45 market may be sold or distributed at the farmers' market only if the  
 2-46 food is prepared in compliance with the temperature requirements  
 2-47 adopted under this section.

2-48 SECTION 5. Chapter 437, Health and Safety Code, is amended  
 2-49 by adding Section 437.0203 to read as follows:

2-50 Sec. 437.0203. REGULATION OF COOKING DEMONSTRATIONS AT  
 2-51 FARMERS' MARKETS. (a) In this section, "farmers' market" and "food"  
 2-52 have the meanings assigned by Section 437.020.

2-53 (b) Except as provided by this section and Sections 437.020,  
 2-54 437.0201, and 437.0202:

2-55 (1) this chapter does not regulate cooking  
 2-56 demonstrations at a farmers' market; and

2-57 (2) a rule adopted under state law may not regulate  
 2-58 cooking demonstrations at a farmers' market.

2-59 (c) A person may conduct a cooking demonstration at a  
 2-60 farmers' market only if:

2-61 (1) regardless of whether the demonstrator provides a  
 2-62 sample of food to consumers, the farmers' market that hosts the  
 2-63 demonstration:

2-64 (A) has an establishment operator with a valid  
 2-65 certification under Subchapter D, Chapter 438, supervising the  
 2-66 demonstration; and

2-67 (B) complies with Sections 437.020 and 437.0202,  
 2-68 the requirements of a temporary food establishment under this  
 2-69 chapter, and rules adopted under this chapter; and

